IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 10868 of 2003

Between:

Kanaparthi Venkataiah, S/o. Rajaiah
R/o. 4-12, T.C. Katta, Manthani,
Karimnagar District.

..... PETITIONER

AND

1 The District Panchayat Officer,
Karimnagar, Karimnagar District.
2 The Gram Panchayat, Rep. by Executive Officer,
Manthani Gram Panchayat, Karimnagar District.
3 Manthani Venkoba S/o. Ramanna
R/o. Manthani, karimnagar District.
R3 is implead as per Court Order dt. 27.8.2003 in WPMP 21010/03

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the impugned order No. A7/1121/2003, Dt: 30-5-2003 passed by the 1st respondent and consequential notice dt: 4-6-2003 passed by the 2nd respondent directing removal of bath room and lavatory constructed at H.no. 4-12 situated at Manthani, Karimnagar District, as illegal, arbitrary and unconstitutional and also violative of principles of natural justice and consequently direct the respondents not to demolish the bath room and lavatory

Counsel for the Petitioner:MR.VENKAT REDDY THIPPARTHI

Counsel for the Respondent : MR.T.RAMULU FOR R

GP FOR PANCHAYAT RAJ & RURAL DEV. FOR R

The Court made the following :

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.10868 OF 2003

ORDER:

When the W.V.M.P.No.1335 of 2005 came up for hearing, both the parties consented for disposal of the writ petition itself and accordingly, the writ petition is taken up for hearing and being disposed of by this order.

Kanaparty Venkataiah filed the writ petition with the prayer to issue a writ of mandamus or any other appropriate writ or order declaring the impugned order No.A7/1121/2003, dated 30.5.2003 passed by the first respondent-District Panchayat Officer and the consequent notice dated 4.7.2003 passed by the second respondent – Grampanchayat directing removal of bathroom and lavatory constructed at H.No.4-12 situated at Manthani of Karimnagar District, as arbitrary and illegal and also violative of principles of natural justice.

One M.Venkoba has come on record as third respondent to the writ petition as per orders in W.P.M.P.No.21010 of 2003 dated 27.8.2003. The third respondent filed counter. It is stated in the counter that the writ petitioner constructed lavatory and bathroom abutting to his house without obtaining permission from the gram panchayat. The Grampanchayat having received his objection petition conducted an enquiry and recorded a finding that the construction of lavatory and bathroom is affecting his rights.

Learned counsel for the petitioner submits that the petitioner submitted application seeking permission and after having waited for statutory period he proceeded with construction and therefore, the writ petitioner cannot be found fault. It is also submitted by him that the District Panchayat Officer, Karimnagar, the first respondent herein, ordered for demolition of the latrine and bathroom without causing notice to the writ petitioner and it amounts to violation of principles of natural justice.

As seen from the records, the first respondent-District Panchayat Officer passed

order on 30.5.2003 for removal of the lavatory constructed by the writ petitioner on the premises bearing door No.4-12. Basing on the proceedings issued by the District Panchayat Officer, the second respondent - Grampanchayat directed the writ petitioner to remove the unauthorized construction of bathroom and lavatory. The grievance of the petitioner is that the District Panchayat Officer has not caused notice to him before ordering demolition of construction. The respondent does not contradict the factual aspect of non-issuance of notice to the writ petitioner. If such is the situation, ordering demolition of the lavatory and bathroom put up by the writ petitioner without serving notice on him amounts to violation of principles of natural justice.

Accordingly, the writ petition is allowed setting aside the order of the first respondent-District Panchayat Officer passed in proceedings No.A7/1121/2003, dated 30.5.2003 and the consequent proceedings of the Grampanchayat dated 4.6.2003. The first respondent-District Panchayat Officer has to issue fresh notice to the writ petitioner and take appropriate action, in accordance with law, for removal of the lavatory and bathroom, within a period of three months.

_____

(**B.SESHASAYANA REDDY,J)**

16.6.2005

MDAA

That Rule Nisi has been made absolute as above. Witness the Hon'ble the Acting Chief Justice Bilal Nazki on this the Thursday, the sixteenth day of June, 2005.

Copy to:

1 The District Panchayat Officer,
Karimnagar, Karimnagar District.
2 The Gram Panchayat, Rep. by Executive Officer,
Manthani Gram Panchayat, Karimnagar District.

3. Two C.Cs to G.P.for Panchayatraj, High Court of A.P., Hyderabad (OUT)

4. Two C.D.copies.